

S.L. No. 150

552

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 107 OF 2023/EZ

In the matter of:

Soumen Chakraborty, son of
Late Shyamapada Chakraborty,
Gopinath Bati, Gonna Dariapur,
Dariapur, Purba Barddhaman,
Gonna Dariapur, West Bengal –
713128.

... Original Applicant

-versus-



1. The Principal Secretary,
Environment Department,
Government of West Bengal,
having its address at 5th floor,
Pranisampad Bhavan, Block LB-
II, Salt Lake, Sector – III,
Bidhannagar, Kolkata - 700106.
E-mail - psecy.env-wb@gov.in,
Phone - 23352742.

2. Chief Environment Officer,
Environment Department,
Government of West Bengal,
acting as/representing State
Wetland Authority, having its
address at 5th floor, Pranisampad
Bhavan, Block LB- II, Salt Lake,

27 JAN 2025

Buddhadev Anukul
filed in
Soumen Chakraborty
Advocate

Sector - III, Bidhannagar,
Kolkata - 700106, Phone -
23355246, Email -
environmentwb@gmail.com.

3. Ministry of Environment,
Forest & Climate Change
(MOEF&CC) represented by its
Deputy Director General, having
its integrated Regional Office at
16-198, Sector- III, Salt Lake
City, Kolkata- 700106. E-mail
:NA.

(Deleted vide order of the
Hon'ble Tribunal Dated
12.09.2023)

4. West Bengal Pollution Control
Board, represented by its
Chairman, having its office at
"paribesh Bhavan", 10A, Block -
LA, Sector-III, Bidhannagar,
Kolkata-700106, e-Mail:
net.wbpcb-wb@bangla.gov.in,
phone - 22023000.

5. The Chairman, West Bengal
Pollution Control Board,
"paribesh Bhavan", 10A, Block -
LA, Sector-III, Bidhannagar,
Kolkata-700106, e-Mail:
net.wbpcb-wb@bangla.gov.in,
phone - 2202 3000.



Buddhadev Anand
Filed by
Surjit Singh
Advocate

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6. Central Pollution Control Board (CPCB) represented by its Regional Director, having its office at 1582, Rajdanga Main Road, South End Conclave, 5th & 6th Floor, Kolkata-700107, E-mail - rdkolkata.cpcb@gov.in, Phone - 03324416003.

7. ADM and DL&LRO, District Purba Bardhaman, having its address at Burdwan Rajbati, BC Road, Bardhaman - 713104, E-mail: admprbdn.gnl-wb@gov.in, Phone - 0342-2662364.

8. Chief Engineer, West Bengal Pollution Control Board, Department of Environment, Government of West Bengal, Paribesh Bhawan, 10A, Block-LA, Sector-III, Bidhannagar, Kolkata-700106, E-mail: see2.wbpcb-wb@bangla.gov.in, Phone - 033 2202 3000.

9. Superintendent of Police, Purba Bardhaman, having its address at Kachhri Road, Badamtala, Kalibazar, Bardhaman, West Bengal - 713101, E-mail :NA.



Budhadev Anand
Filed by
Advocate

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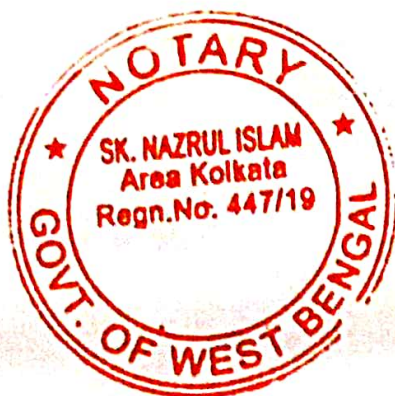
10. District Magistrate, Purba Bardhaman, having its address Kaehhari Road, Kalibazar Para, Purba Bardhaman, West Bengal – 713101, E-mail: dmprbdn.gnl-wb@gov.in.

11. Block Development Officer (BDO) Ausgram – I, P.O. - Guskara District – Purba Bardhaman, West Bengal – 713128, Email – NA, Phone : 03452-255056.

12. The Pradhan, Dignagar – II, Gram Panchayat, Village – Gopinathbati, P.O. – Gonna Dariapur, District – Purba Bardhaman, Pin – 713128, Email - NA.

13. The Principal Secretary, Food & Supplies Department (Govt. of West Bengal) having its address at 11/A, Mirza Ghalib Street, Khadya Bhawan, Block – B, Kolkata – 700087, Email: itcellfswb@gmail.com.

14. KM Agro Tech Private Limited, represented by its directors, a company having its registered office at Vill: Gopinathbati, P.O. Gonna,



Buddhadev Anurad
Filed by
Sudipta Bhattacharya
Advocate

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Dariapur, P.S. Ausgram, Purba
Bardhaman, West Bengal -
713128 E-mail:

kmagrotechpvtlimited2012@gm
ail.com, Phone: 03452257735.

15. Pradip Shaw, Director of
M/s. KM Agro Tech Private
Limited, Son of Arjun Shaw,
residing Near Forest Office, P.O.
- Guskara, P.S. - Ausgram,
District - Purba Bardhaman, Pin
- 713128, E-mail:

pradipshawbwn@gmail.com,

Phone: 9475346128.

16. Pritom Shaw, Director of
M/s. KM Agro Tech Private
Limited, Son of Pradip Shaw,
residing at Bimshaw Near Forest
Office, P.O. - Guskara, P.S. -
Ausgram, District - Purba
Bardhaman, Pin - 713128, E-
mail:

pritamshaw9live@gmail.com,

Phone: 9475266482.

17. District Controller (Food &
Supplies Department), Purba
Bardhaman, having its address
G.T. Road, West Bengal -
713101, Email - NA.



Buddhadevankar
Fitted but
Pradip Shaw
Advocate

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18. The Managing Director,
West Bengal State Cooperative
Marketing Federation Ltd.
(Benfed), having its address
Southern Conclave, 3rd floor,
1582, Rajdanga Main Road,
Kolkata - 700107, Email:
info@benfed.org, Phone:
+913324414366.

(Deleted vide order of the
Hon'ble Tribunal Dated
12.09.2023)

19. Buddhadeb Ankure, son of
Ganesh Ankure, residing at
Village - Gopinath Bati, P.O. -
Gonna, Dwariapur,
Bardhaman, West Bengal -
713128.

...Respondents



AFFIDAVIT IN REPLY AND/OR EXCEPTION OF THE
RESPONDENT NO. 19 TO THE COMMITTEE REPORT FILED
BY THE WEST BENGAL POLLUTION CONTROL BOARD

I, Buddhadeb Ankure, son of Ganesh Ankure, aged about - 38 years, by
faith - Hindu, residing at Village - Gopinath Bati, P.O. - Gonna,
Dwariapur, Bardhaman, West Bengal - 713128, do hereby solemnly state
and affirm as follows:-

1. I have been served with a copy of the Committee Report on
affidavit, dated November 30, 2023, filed by the West Bengal Pollution
Control Board (hereinafter referred to as the said Report on Affidavit). I

Buddhadeb Ankure
Filed by
Sudip Kumar
Advocate

have gone through the said Report on Affidavit. I have understood the meaning, contents and purport thereof.

2. By an order dated 18.03.2024, the Hon'ble National Green Tribunal was pleased to allow the applicant herein to be impleaded as party, inter alia, to agitate its further causes in the serious environmental issues involved, in the present proceedings, to subserve the interest of Justice. Photocopy of the order dated 18.03.2024 is annexed hereto and marked with the letter "A".

3. Upon such impleadment, as aforesaid, I wrote to the Original petitioner for cause papers of the matter which were delivered to me on 19.03.2024.

4. Upon perusal of those documents supplied, I came across a document inter alia, being the committee report prepared and filed, by virtue of order of this Hon'ble Tribunal dated 12.09.2023.

5. Upon perusal of the entire pleadings on record including such committee report filed by the West Bengal Pollution Control Board (WBPCB) I have come across the various points of serious and glaring discrepancies, impacting the very root of the subject matter involved herein, which are in violation of the order dated 12.09.2023, remitting constitution of the same.

6. The report suffers from gross material irregularities on its face, inter alia, directing the formation and functioning of the special committee to be setup with 3 Members. Consisting inter alia, of a member who shall not be below the rank of an Additional District Magistrate (ADM) to carry out inspection in terms of the said Order. A copy of such order dated 12th September, 2023 is annexed hereto and marked as "B".

7. However, at utter dismay it is seen from the committee report dated 30.11.2023 that neither the District Magistrate nor the Additional District Magistrate was present during the Inspection at the subject premises and



Buddhadev Anand
Filed by
Kupat Chatterjee
Advocate

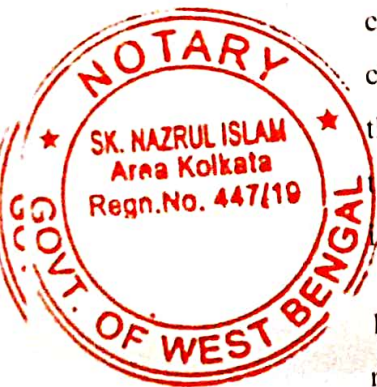
instead, sent one Mr. Sribash Bhakta, Dy. DL&LRO, who is much below the rank of the DM/ADM, who was present at the time of inspection as a part of the 3 members' committee. The order of the Hon'ble Tribunal was not complied in its terms, if not sheerly disregarded.

8. It is surprising that based on that arbitrary visit and most shockingly, at the time of preparation of the Report, the ADM and DL&LRO endorsed on the report in blatant disregard to act in terms of the order of this Hon'ble Tribunal. Even the absence of the ADM and DL & LRO in the inspection was materially suppressed. Such conduct on the part of the ADM and DL&LRO of staying absent at the time of inspection, as per the direction of this Hon'ble Tribunal, and instead sending the Dy. DL&LRO at his own choice and fancy, tantamount contumacious disobedience to the Order of Hon'ble National Green Tribunal. Therefore, there is no inspection in the eye of law in terms of the order of this Hon'ble Tribunal dated September 12, 2023, and hence, deserves no credence or consideration.

9. Without prejudice to the aforesaid, and fully relying on the same it is further stated that the private respondents have also admitted in their affidavit in opposition that they are running a rice mill inside the common premises and the special committee has also reflected the same in its committee report and despite the same no recommendation of immediate closure of fly-ash brick manufacturing unit has been recommended raising the question of malafide. Assuming for a moment though not admitting that the report is tenable in the eye of law the report contains factual information without any support of substantial document being annexed.

10. It is pertinent to highlight the factual aspect that the rice mill not running on the particular day of the inspection, which fact was completely undermined in the purported inspection and its outcome as the effects of the fly-ash brick manufacturing upon the rice mill and its production activity has not been recorded. The report of the special committee cannot be relied upon as the primary purpose of setting up the special committee was for studying the same.

Buddhadev ANKUR
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 Signature of the Advocate
 Advocate



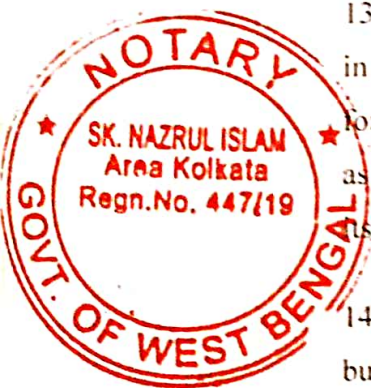
11. It is pertinent to mention that the activity of the rice mill has only been temporarily non-functional. On the date of inspection the rice mill operation was purposely closed so that the production of rice and the contamination of the same with the air borne fly ash, was not witnessed by the committee at the time of inspection. In fact, despite the orders of the Hon'ble Tribunal the private respondent numbers 14, 15 and 16 have not provided the special committee the opportunity to inspect the rice mill and to obtain sample of rice which would have helped in ascertaining the effect of the degree of pollution on the edible rice grains.

12. That, it is clear from the Report that on the day of inspection the Rice Mill was closed and not operational but all relevant documents relating to the rice mill was available before the special committee, which clearly shows the ploy and ulterior motive on its face. As a local resident the respondent no. 19 is continuously witnessing the rice mill and fly-ash brick manufacturing unit operating almost every day. Even para 5(e), (f) are surprisingly written as the observation/finding of the committee, however without disclosing any source or basis for the same. The biasness/ill-motive of the committee in preparation of the Report is apparent and should not be considered or valued on this ground alone.

13. The contents of Para 5(g) is a unilateral observation made/recorded, in absence of the applicant and is malafide on its face, without any basis for making such observation of 'no extra storing or dumping of fly ash...' as observed in para 5(g). Therefore, the report is sans any credibility from its plain reading.

14. The report states how the unit manufacturing fly ash bricks operates but does not state whether all the parameters mandated by law are being complied to prevent any pollution/contamination also the consequential contamination of rice. Further, the report remains silent on whether there is any pollution caused and its effects thereof on the rice grains which is kept in very close proximity.

Buddhadevankur
Filed by
Special Committee
Advocate



15. The committee report is also silent regarding the respondent no. 14 being able to obtain trade licences for a rice mill and other necessary licences or permission to run a fly ash factory within same the premises, inter alia, by informing the concerned authority that both such unit are running within a common premises and close vicinity, and if not done so, whether the respondent no. 14 has misled and/or suppressed material information before such licensing authority concerned.

16. It is stated in the report that consent to operate a fly-ash brick manufacturing unit is not required as the same comes under "white category", however, the report does not state whether such operations can be carried out simultaneously of both the units of rice and fly-ash bricks in such close proximity nor even dealt with any such peculiar situation at the time of preparation thereof.

17. Surprisingly, the report did not deal with the very exceptional situation involved in the present case and cannot make any statements that there is no health impact, visibly evident, or that there is no deposition of fly-ash without conducting any sample testing of the surroundings including the effects of fly-ash contamination on rice, and as the rice mill was not functioning on the day of inspection, no conclusion can be drawn as to the same. As the spirit of the order dated 12th September, 2023 was to ascertain whether the pollution caused in the premises leads to ingestion of the pollutants by the consumers of rice being produced at the premises. The committee, it is most humbly stated, wholly stood misguided by the fact that at the time of inspection it was observed that water was being sprayed through sprinklers on raw fly ash so the same cannot be air borne, giving clear indication that there accumulates substantial quantity of airborne fly-ash, but the committee cannot ensure the same as sufficient measure or the same would continue at all material point of time in other normal days, or the committee cannot hold the same as appropriate preventive or remedial measure so as to continue the business of production of rice side by side, sharing the same compound more importantly in a radial distance of around 50 meters or less in between.

Buddhadev Anukul
Filed by
Subhjit Chakravarty
Advocate



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18. In such circumstances, it is the need of the hour that the Hon'ble tribunal shall immediately declare the report filed by the committee on affidavit as non est and filed without any proper assessment and be called upon to be struck off since the preparation of such report is in gross deviation to the Order dated 12th September, 2023, besides being biased and mala fide.

19. It is further prayed that the need of the hour that Your Honour may pass appropriate directions for conducting a fresh inspection with notice upon the original applicant and the present intervener/Respondent No. 19 and all other parties to the proceeding and preparation of a technical report with adequate sample upon vivid inspection so as to maintain the unbiased nature and outcome of such inspection.

20. It is further prayed that Your Honour may pass an order for setting aside the committee report dated 30.11.2023 filed by the West Bengal Pollution Control Board (WBPCB) on the grounds stated hereinabove;

21. That the statements contained in paragraph 1 to 17 are true to my knowledge and rests are my humble submission before the Learned Tribunal.

Prepared in my chamber

Sufali Bhattacharya
Advocate

Buddhadev Ankur

Deponent



Identified by me

Sufali Bhattacharya

Advocate

Solemnly Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CrPC

Notary
SK. Nazrul Islam
Notary, Govt. of W.B.
Regn. No. 447/19
City Civil Court, Calc. etc

27 JAN 2025

Item No.07

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.107/2023/EZ
(I.A. No.13/2024/EZ)

Soumen Chakraborty

Applicant(s)

Versus

The Principal Secretary,
Environment Dept. Govt. of West Bengal & Ors.

Respondent(s)

Date of hearing: 18.03.2024

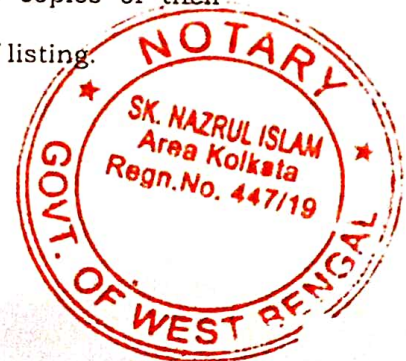
**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Deepnath Roy Choudhury, Advocate a/w
Mr. Saunak Sengupta, Advocate (in Virtual Mode),
Mr. Khondher Samiul Haque, Advocate,
Mr. Bhaskar Dwivedi, Advocate and
Mr. Rahul Naskar, Advocate

For Respondent(s) : Mr. Sudip Kumar Dutta, Adv. for R-1,2,7,9,11,13&17(in Virtual Mode),
Mr. Dipanjan Ghosh, Advocate for R-4, 5 & 8,
Mr. Ashok Prasad, Advocate for R-6,
Mr. Md. Karim Warsi, Advocate a/w
Mr. Arpita Mondal, Advocate and
Mr. Md. Rahim Waris, Advocate for R-14 to 16,
Mr. Kaushik Bhatta, Advocate a/w
Mr. Supratim Bhattacharjee, Advocate (in I.A. No.13/2024/EZ)

ORDER

1. Mr. Deepnath Roy Choudhury, learned Counsel appearing on behalf of the Applicant prays for and is granted further four weeks time for filing rejoinder affidavit.
2. Mr. Md. Karim Warsi, learned Counsel appearing on behalf of the Respondent Nos.14 to 16, states that he has not received the copy of the affidavit filed by the State Respondents. Learned Counsel may download the same from the NGT Website/Portal.
3. The Counsel for the parties shall exchange the copies of their affidavits among themselves before the next date of listing.
4. **List on 08.05.2024.**



I.A. No.13/2024/EZ:-

1. This Interlocutory Application has been filed by the Applicant-Buddhadeb Ankure, to allow the Applicant to intervene in the present proceedings.
2. The only objection raised by Mr. Md. Karim Warsi, learned Counsel for the Respondent Nos.14 to 16, Private Respondents, is that the representation made by the proposed intervener was sent on 02.01.2024 which was received in the Office of the District Magistrate, Purba Bardhaman on 05.01.2024.
3. Mr. Kaushik Bhatta, learned Counsel for the Intervener Application submits that the Applicant-Buddhadeb Ankure, was not aware that there was an Original Application No.107/2023/EZ pending in the Tribunal and, therefore, he submitted a representation before the District Magistrate, Purba Bardhaman on 02.01.2024 but when he came to know that the Original Application is already pending on the same issue, he has filed the Intervener Application to highlight certain additional grounds relating to environmental violations by the Respondent Nos.14 to 16.
4. Mr. Deepnath Roy Choudhury, learned Counsel for the Applicant states that he has no objection if the Intervener Application is allowed.
5. We, accordingly, allow the I.A. No.13/2024/EZ.

.....
B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

March 18, 2024,
Original Application No.107/2023/EZ
(I A No 13/2024/EZ)
MN



Item No.01

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.107/2023/EZ

Soumen Chakraborty

Applicant(s)

Versus

The Principal Secretary, Environment Department,
Government of West Bengal & Ors.

Respondent(s)

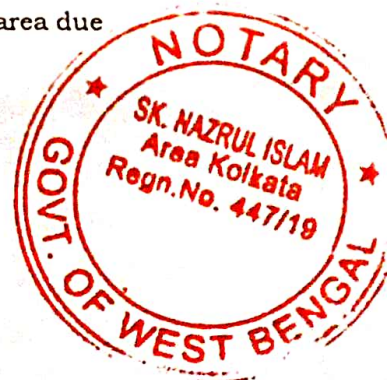
Date of hearing: 12.09.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Samiul Haque, Advocate a/w
Mr. Deepnath Roychowdhury, Advocate,
Mr. Saunak Sengupta, Advocate and
Mr. Bhaskar Dwivedi, Advocate

ORDER

1. Heard Mr. Samiul Haque, learned Counsel assisted by Mr. Deepnath Roychowdhury, Mr. Saunak Sengupta and Mr. Bhaskar Dwivedi, learned Counsel appearing on behalf of the Applicant.
2. The Applicant has filed this Original Application alleging that the Respondent Nos.14, 15 and 16 or the Directors of the Respondent Nos.14 Firm, earlier known as M/s. Koner & Maroti Agro Tech Private Limited, now known as KM Agro Tech Private Limited, are operating Rice Mill and are also stacking fly ash and manufacturing fly ash bricks on a commercial scale within the same area from where it is operating the Rice Mill producing rice for consumption.
3. The allegation is that the Respondent Nos.14, 15 and 16 are carrying on business of dumping fly ash and manufacturing of fly ash bricks without necessary license and without statutory clearances for the same thereby endangering human health and safety in the area due to air borne particles of fly ash.



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4. It is also alleged that the entire activities of the Respondent Nos.14, 15 and 16 are being carried out in violation of the Fly Ash Rules framed by the Ministry of Environment, Forests and Climate Change (MoEF&CC).
5. In our opinion, matter requires consideration.
6. Issue notice to the Respondents, returnable within four weeks.
7. Mr. Sudip Kumar Dutta, learned Counsel who is present in the Court, accepts notice on behalf of the Respondent Nos.1,2,7,9,10,11,13 and 17, State Respondents, Government of West Bengal.
8. Mr. Dipanjan Ghosh learned Counsel who is appearing (in Virtual Mode), accepts notice on behalf of the Respondent Nos.4, 5 and 8, West Bengal Pollution Control Board.
9. Mr. Ashok Prasad, learned Counsel who is present in the Court, accepts notice on behalf of the Respondent No.6, Central Pollution Control Board.
10. Respondent Nos.3, Ministry of Environment, Forests and Climate Change (MoEF&CC) and 18, West Bengal State Cooperative Marketing Federation Ltd. are not necessary parties in the present Original Application and shall be deleted from the array of Respondents.
11. Issue notice to the Respondent Nos.12, 14, 15 and 16, returnable within four weeks.
12. All the Respondents shall file their counter-affidavits within four weeks.
13. Considering the allegations made, we deem it appropriate to constitute a Committee comprising of the following members:



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- i) Senior Scientist / Environmental Engineer, West Bengal Pollution Control Board;
 - ii) Senior Scientist, Central Pollution Control Board;
 - iii) Representative of the District Magistrate, Purba Bardhaman not below the rank of Additional District Magistrate (ADM)
14. The Committee shall visit the site and submit its Report within three weeks.
 15. The West Bengal Pollution Control Board shall be the Nodal Office for all logistic purposes and shall file the Committee Report on affidavit.
 16. In case violations are found, the Committee shall recommend penalty as well as Environmental Compensation and also suggest remedial measures, if any.
 17. Learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures upon Mr. Sudip Kumar Dutta, Mr. Dipanjan Ghosh and Mr. Ashok Prasad, learned Counsel for the Respondents within 24 hours.
 18. **List on 13.10.2023.**

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

September 12, 2023,
Original Application No. 107/2023/EZ
SKB



BEFORE THE NATIONAL
GREEN TRIBUNAL (EASTERN
ZONE BENCH)

ORIGINAL APPLICATION
NO.107 OF 2023/EZ

In the matter of:

Soumen Chakraborty

... Original Applicant

-Versus-

The Principal Secretary,
Environment Department,
Government of West Bengal & Ors.

... Respondents



AFFIDAVIT IN REPLY
AND/OR EXCEPTION OF
THE RESPONDENT NO. 19
TO THE COMMITTEE
REPORT FILED BY THE
WEST BENGAL POLLUTION
CONTROL BOARD

SUPRATIM BHATTACHARJEE

Advocate, High Court, Calcutta

6, OLD POST OFFICE STREET,

ROOM NO. 72, 2ND FLOOR,

KOLKATA – 700001

(TEMPLE CHAMBERS)

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bhattacharjeesupratim@gmail.com

Enrollment No.: WB/1858/2010